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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/957,472	09/21/2001	Tetsuya Hanamoto	204552021500	4058

25227 7590 12/27/2005

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EXAMINER

JACKSON JR, JEROME

ART UNIT	PAPER NUMBER
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2815

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

OK

Office Action Summary	Application No. 09/957,472	Applicant(s) HANAMOTO ET AL.	
	Examiner Jerome Jackson Jr.	Art Unit 2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 157-222 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 157-222 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 157-222 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vriens in view of the Phosphor Handbook, Vecht and Komoto, of record.

The previous rejection still applies. The new limitation is a statement of the inherent property of the structure and does not structurally distinguish over the prior art which possesses the same property. It basically states that invisible light has lower visibility than visible light.

The declaration under 37 CFR 1.132 filed 10/06/05 is insufficient to overcome the rejection of claims 157-22 based upon Vriens, Phosphor, Vecht and Komoto as set forth in the last Office action because: contrary to the declaration Vriens clearly does teach emission in the uV/blue range above 390nm. The declaration apparently assumes that the claim recites a light emitting element emitting over all the wavelengths from 390-420 and nowhere outside. This argument is not convincing as the claim language is not so narrow. The claim merely requires a light emitting element emitting anywhere in that range (and does not necessarily exclude additional emission outside that range).

Declarant also argues that Vriens does not teach that 390nm light should be used to excite phosphors. This argument is not convincing as Vriens states "The afore described preferred embodiments of the invention are particularly suitable when the wavelength of the uV/blue light is not too short, for example above 390nm." This statement in Vriens refutes declarant's argument. In regard to the Phosphor handbook, arguments that there are no explicit statements that the cited phosphors emit when

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excited by 390nm-420nm photons, are unconvincing because the phosphors do emit when excited at these energies. These are inherent properties of the phosphors. Furthermore, the references must be taken together for all they suggest to one of ordinary skill. Arguing against the Phosphor Handbook alone is unconvincing.

Declarant argues that Vriens or Vriens with Phosphor Handbook does not recognize applicant's advantages of color purity by restricting the emission from 390-420nm. Again this argument is not persuasive as the claims do not require that emission cover all and only that spectrum (390-420nm), and moreover, it is not necessary that the prior art recognize applicant's reasons or advantages, but merely that the claim limitations be met by suggestions and teachings in the prior art. The suggestions and teachings do not have to be the same as applicant's.

Applicant's arguments filed 10/6/05 have been fully considered but they are not persuasive. As stated above and in the previous rejections, Vriens teaches emission in the uV/blue above 390nm. This value is in the range claimed and thus meets the claim recitation. Arguments regarding the new limitation are unconvincing as stated above. Arguments regarding a mercury vapor lamp are unpersuasive as the emitter in Vriens is an LED emitting in the uV/blue above 390nm. In response to applicant's argument that Vriens uses 390nm or greater to reduce resin deterioration, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter.

1985). Note also that these arguments apparently rely on limiting the emission to 420nm and the claims are not that narrow.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Jackson Jr. whose telephone number is 571-272-1730. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on 571-272-1664. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jj



JEROME JACKSON
PRIMARY EXAMINER